

THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA,

Plaintiff,

v.

[7] BRENDA VELAZQUEZ-CORCHADO,

Defendant.

Crim. No. 11-359 (ADC)

ORDER

On September 19, 2011, the Grand Jury returned an Indictment charging, *inter alia*, Brenda Velázquez-Corchado ("defendant") with one count of conspiracy to commit theft or bribery concerning programs receiving Federal funds in violation of 18 U.S.C. §§ 371, 666(a)(1)(B) and 666(a)(2). **ECF No. 3**. Presently before the Court is defendant's motion to suppress statements that she gave prior to the indictment. **ECF No. 318**. The United States opposed the motion. **ECF No. 349**. The motion was referred to Magistrate-Judge Bruce McGiverin ("Magistrate-Judge McGiverin") for entry of a Report & Recommendation ("R&R"). **ECF No. 341**. Magistrate-Judge McGiverin held an evidentiary hearing on January 28, 2013 (**ECF No. 357**) and subsequently entered his R&R, recommending that the motion be denied (**ECF No. 375**). No objection to the R&R was filed.

Defendant moves to suppress statements which she made at interviews with federal law enforcement on March 2, 2010, March 10, 2010 and September 10, 2010. **ECF Nos. 318, 375**. She bases her request for suppression on law enforcement officers' failure to read her *Miranda* rights in the March 2 and 10, 2010 interviews and the allegedly involuntary nature of the statements. **ECF Nos. 318, 375**.

The District Court may refer pending criminal motions to a Magistrate Judge for entry of a report and recommendation. 28 U.S.C. §636(b)(1)(A); Fed.R.Crim.P. 59(b)(1); D.P.R. Crim. R. 159. An adversely affected party may file written objections to the report and recommendation within fourteen days after served with the same. 28 U.S.C. §636(b)(1).

“Absent objection by [the adversely affected party], [a] district court ha[s] a right to assume that [the affected party] agrees to the magistrate’s recommendation.” *Templeman v. Chris Craft Corp.*, 770 F.2d 245, 247 (1st Cir. 1985). Thus, “a party’s failure to assert a specific objection to a report and recommendation irretrievably waives any right to review by the district court and the court of appeals.” *Santiago v. Canon U.S.A., Inc.*, 138 F.3d 1, 4 (1st Cir. 1998). Accordingly, absent a proper objection, the court need only satisfy itself that there is no plain error in the Magistrate Judge’s findings in order to adopt the same and accept an unopposed report and recommendation. *López-Mulero v. Valez-Colón*, 490 F.Supp. 2d 214, 217-218 (D.P.R. 2007) (citing *Templeman v. Chris Craft Corp.*, 770 F.2d 245, 247 (1st Cir. 1985), *cert. denied*, 474 U.S. 1021 (1985)). In this case, defendant has not raised any objections to Magistrate-Judge McGiverin’s R&R; consequently, the Court reviews the same for plain error only.

Upon such a review, the Court is satisfied that no plain error exists in the Magistrate-Judge’s reasoning and findings. The Court agrees that *Miranda* warnings were not necessary in the March 2 and 10, 2010 interviews as they “took place in circumstances where a reasonable person would [not] have found her freedom restrained to the degree associated with arrest.” See **ECF No. 275** at pp. 5, 6. Moreover, the Court agrees that, viewing the totality of the circumstances, defendant’s statements were not made involuntarily and that no indication of coercion was present as to the September 28, 2010 interview. See *id.* at pp. 7-11. Although defendant was clinically depressed in 2000 and 2001, there was no evidentiary basis for a finding that she was especially susceptible to pressure during the interview. See *id.* at pp. 12.

Thus, for the reasons set forth above, the Court **ADOPTS** and **INCORPORATES IN TOTO BY REFERENCE** Magistrate-Judge McGiverin’s R&R (**ECF No. 375**) and **DENIES** defendant’s motion to suppress (**ECF No. 318**) accordingly.

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Jury Trial remains scheduled for April 8 through 12, 2013. A Pre-Trial Conference is set for **March 20, 2013 at 3:30 p.m.**

IT IS SO ORDERED.

At San Juan, Puerto Rico, on this 18th day of March, 2013.

S/AIDA M. DELGADO-COLÓN
Chief United States District Judge